



Reforming the UK Packaging Producer Responsibility System

Response to Defra consultation by Environment Links UK

May 2019

Environment Links UK (ELUK) brings together environment and animal protection organisations to advocate for the conservation and protection of wildlife, countryside and the marine environment. The network comprises the combined memberships of Wildlife and Countryside Link, Scottish Environment LINK, Wales Environment Link and Northern Ireland Environment Link. Taken together, Environment Links UK members have the support of over eight million people in the UK.

This response is submitted on behalf of ELUK and is supported by our member organisations listed below:

- A Rocha UK
- Association for the Protection of Rural Scotland (APRS)
- Badenoch and Strathspey Conservation Group
- Bat Conservation Trust
- Born Free Foundation
- Butterfly Conservation
- Campaign to Protect Rural England
- ClientEarth
- Environmental Investigation Agency
- Friends of the Earth England, Wales and Northern Ireland
- Froglife Trust (Scotland)
- Greenpeace
- Institute of Fisheries Management
- Marine Conservation Society
- Nourish Scotland
- North East Mountain Trust
- Salmon and Trout Conservation
- Scottish Wild Land Group
- Scottish Wildlife Trust
- Whale and Dolphin Conservation
- Wildlife Gardening Forum
- Wild Justice
- The Wildlife Trusts
- WWF
- Zoological Society of London (ZSL)
- Royal Zoological Society of Scotland

Environment Links UK is working in partnership with:

- Green Alliance
- Keep Britain Tidy

EXECUTIVE SUMMARY

The UK Government's recent declaration of a climate emergency and the Committee on Climate Change's new 'Net Zero' report show that the tide is turning, with major environmental crises no longer being ignored at the highest level. If the UK Government is to prove that these are more than hollow words, it must focus on addressing major environmental problems at root. In the case of the single-use packaging crisis, we must build a system focused on packaging waste prevention, with a wholesale transition to re-usable alternatives and closed-loop recycling.

The environment sector welcomes the long overdue and timely attention to resources, and the opportunity to address the shortcomings of a packaging system regarded as inefficient at best and broken at worst. We are

gratified that the Government recognises that a major overhaul is needed and plans to properly embed concepts such as the polluter pays principle and extended producer responsibility in UK packaging legislation.

At the same time, we believe improvements are still needed. It remains unclear how the warm words on waste minimisation and resource efficiency in the Resources and Waste strategy will translate into action on the ground. Questions remain about whether the consultations' proposals will add up to a coherent, sustainable system.

In examining the four consultations¹, we have noticed several recurring shortcomings. These are:

- **Reduction is too often ignored:** We cannot recycle our way out of the current packaging crisis, which requires a reduction-led strategy to phase out all non-essential, single-use packaging and a transition to a refillable, reusable society. We believe the Government must do much more to first prevent waste generation and reduce harm, as dictated by the waste hierarchy. An obvious place to start would be to set legally binding reduction targets.
- **It is not just about plastic:** All materials have environmental consequences and we need to revolutionise the packaging system as a whole rather than focusing on substituting one single-use material for another. We believe, for example, that the implementation of a tax on plastic, rather than all materials, could lead to perverse shifts to avoid the tax, with negative environmental consequences. Likewise, a Deposit Return Scheme (DRS) should include all materials to prevent all forms of litter and ensure all drinks containers are properly collected so material can be used again.
- **Government policy must address the unchecked introduction of non-conventional plastics:** We are particularly concerned that the reforms will not prevent like-for-like substitutions with biodegradable, bio-based and compostable plastics. These plastics do not solve the problems associated with pollution in marine, terrestrial and aquatic environments, and we should not be searching to create material that is safe to litter. Their rise could justify greater use of single-use plastic packaging and so detract from the need to reduce, while also complicating existing collection and recycling systems.
- **All the UK Governments and Government departments must work together:** There is inconsistency across UK Governments and Government departments that is proving extremely unhelpful and could risk the effectiveness of all proposed schemes. For example, given the current political context and lack of legislative mechanisms, the plastic packaging tax must extend to Northern Ireland or risk it becoming a dumping ground for the industry to sell off remaining stocks of plastic products. Any DRS in England, Wales and Northern Ireland must also match the criteria and timelines of the Scottish scheme. In England specifically, we are concerned that the Department for Business, Energy and Industrial Strategy (BEIS) has been promoting bio-based and compostable plastics as a solution to the marine plastic crisis, at the same time as Defra's consultations suggest they should be avoided. Unlike other recent Government strategies in England, including the Clean Growth Strategy and the Industrial Strategy, the foreword for the Resources and Waste strategy was from the Environment Secretary, and not the Prime Minister. We worry that this signals a lack of buy-in from other departments to some of the contents of the strategy and resulting consultations.
- **Behaviour change is not guaranteed:** The overhauls rightly aim to fairly and effectively distribute responsibility, but there is little to encourage people to do the right thing, apart from through the proposed DRS. Charging for single-use cups, for instance, which is being explored in Scotland, is still disappointingly absent in the rest of the UK. The extended producer responsibility (EPR) reforms will also see producers paying to landfill recyclable waste if people choose not to recycle it. This is clearly a shortcoming, and indicates the need to reopen the discussions on variable charging. This is a common feature in many societies with low waste generation and high recycling. Consulting on this now is the best way to lay the groundwork for introduction once all citizens have access to high quality, consistent services.

¹ As well as this consultation on Extended Producer Responsibility, the UK Government is consulting on a tax on plastic packaging, a Deposit Return Scheme (for England and Wales) and consistency in household and business recycling collection (for England).

DETAILED RESPONSE

6. Do you agree with the principles proposed for packaging EPR?

Yes.

There is much to be lauded in these principles and we welcome the UK Government's intention to listen to the public mood and overhaul the UK's current producer responsibility scheme for packaging, the Packaging Recovery Note (PRN) system. However, crucial areas remain unaddressed within the proposed principles and the EPR scheme that they underpin. As with the UK Governments approach to waste more widely, too much focus is placed upon enhancing recycling and recyclability; improvements which are important but alone insufficient given the scale of the problem now faced.

We strongly encourage the EPR principles to be refocused to incentivise a wholesale transition away from a system reliant on single-use packaging, primarily through prevention and reusable packaging solutions, rather than a simple substitution of one single-use material for another. Furthermore, we advocate that the EPR principles should be designed to ensure producers internalise the full life cycle costs of packaging materials. Currently, 'costs' are defined purely as those related to waste-management services, whereas there are environmental and social risks at each stage of the life cycle for all packaging materials – from extraction, to production and transport, through to consumption and disposal.

We propose alterations to the principles below, based upon the following key arguments:

- 1. Exponential and growing production and consumption of single-use packaging mean that recycling improvements alone are not enough.** Recent decades have seen a proliferation of single-use packaging, in particular plastic packaging – now the dominant delivery mode for many products. Without a significant turnaround in industry trends, UK plastic packaging waste could increase 22% between 2018 and 2030, growing to nearly 4,500,000 tonnes.² Only a third of consumer plastic packaging is recycled;³ the rest sent to landfill or escapes into the natural environment. The UK's recycling record to date has relied on the export of plastic waste, without oversight of how much is ultimately recycled nor the working conditions involved. In order to close the gulf between consumption levels and recycling capacity, it is clear that a significant focus on reduction will be required. There is currently no evidence to suggest that the expected increase in packaging production can be met with a commensurate increase in recycling capacity in nearly enough time, meaning under business-as-usual scenarios leakage of plastic waste into the environment is highly likely.
- 2. The limited recyclability of plastic as a material.** Every time plastic is recycled, the polymer chain grows shorter and its quality decreases, meaning that it can only be recycled a finite number of times; so each time plastic is recycled, additional virgin material is needed to "upgrade" its quality.⁴ In this sense, plastic is not a material that can be used sustainably and within a 'closed loop' system.
- 3. A focus on re-use, as well as recycling.** In line with circular economy principles and the waste hierarchy, packaging reduction efforts must focus foremost on prevention, in parallel to scaling up reusable and refillable packaging alternatives. This would be in line with Article 8 of the EU Waste Framework Directive, which describes EPR as a policy measure to "*strengthen the re-use and the*

² https://www.wwf.org.uk/sites/default/files/2018-03/WWF_Plastics_Consumption_Report_Final.pdf

³ WRAP, 2018. Plastic Flow 2025: Plastic Packaging Flow Data Report. Available at <http://www.wrap.org.uk/sites/files/wrap/PlasticFlow%202025%20Plastic%20Packaging%20Flow%20Data%20Report.pdf>

⁴ Geuke, B., 2014. Plastic Recycling. Food Packaging Forum dossier. https://www.foodpackagingforum.org/fpf-2016/wp-content/uploads/2015/11/FPF_Dossier08_Plastic-recycling.pdf

prevention, recycling and other recovery of waste".⁵ Currently, the proposed EPR principles fail to incorporate re-use criteria. The UK Government has committed to match the level of ambition seen in the 2018 European Strategy on Plastics in a Circular Economy, going further where possible.⁶ A failure to promote re-use would leave the UK falling short of this commitment.

- 4. Focus on reduction and waste prevention is needed to meet ambitious climate targets.** Action at the recycling stage is too late into the life cycle of a product to deliver the kind of carbon savings that will be required to meet ambitious emissions reduction targets.⁷ While single-use plastic packaging is sometimes heralded as a means of increasing shelf-life, growth in the application of plastic packaging has increased alongside growth in food waste, with a significant proportion of food thrown away still inside plastic packaging.⁸ With the UK having just declared a climate emergency, all future policies including EPR reform must reflect deep-reduction emission strategies.
- 5. The environmental and social costs of packaging materials at all stages of its life cycle, not just waste management.** Currently, the proposed EPR principles define the costs associated with packaging solely in terms of those arising at the waste management stage. However, all packaging materials have potential environmental and social costs arising at each stage of their life cycle - including the extraction of fossil feedstocks for plastic,⁹ forest management concerns associated with pulp and paper,¹⁰ and pollution and health risks of bauxite ore mining for aluminium production.¹¹ In light of this, we strongly caution against a simple substitution of one single-use material for another. In line with original definitions of EPR, proposed as *"a policy principle to promote total life cycle environmental improvements of product systems by extending the responsibilities of the manufacturer of the product to various parts of the product's life cycle"*,¹² we urge the UK Government to incorporate a full life cycle approach into the EPR principles. This would correspond to EU minimum requirements for countries looking to establish EPR schemes, which state: *"measures shall take into account the impact of products throughout their life cycle"*.¹³

With these arguments in mind, we suggest the following changes to be made to the proposed principles:

Principle 1 should be rephrased to emphasise the need for a significant focus on reduction and wholesale shift towards reusable packaging delivery modes, in addition to improving recycling. In line with the waste hierarchy, we suggest this principle is reframed to aim: *"to reduce all but the most essential packaging applications, to incentivise a wholesale transition towards reusable packaging delivery models, and improve the recycling of packaging within a closed-loop system."*

⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008L0098&from=EN>

⁶ <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/CBP-8515>

⁷ <https://www.ciwem.org/assets/pdf/Policy/Policy%20Position%20Statement/Waste-Management-and-Climate-Change.pdf>

⁸ Friends of the Earth Europe, 2018. Unwrapped: How throwaway plastic is failing to solve Europe's Food Waste Problem. Available at: http://www.foeeurope.org/sites/default/files/materials_and_waste/2018/unwrapped_-_throwaway_plastic_failing_to_solve_europes_food_waste_problem.pdf

⁹ CIEL, 2019. Plastic & Health: The Hidden Costs of a Plastic Planet. Available at: <https://www.ciel.org/wp-content/uploads/2019/02/Plastic-and-Health-The-Hidden-Costs-of-a-Plastic-Planet-February-2019.pdf>

¹⁰ Environmental Paper Network, 2019. The Paper and Packaging Boom: A growing wave of pulp production threatens the world's forests and climate. Available at: <https://environmentalpaper.org/2019/03/the-paper-and-packaging-boom-a-growing-wave-of-pulp-production-threatens-the-worlds-forests-and-climate/>; Innovation Forum, 2019. Packaging drives pulp's deforestation risks. Available at: <https://innovation-forum.co.uk/analysis.php?s=packaging-drives-pulps-deforestation-risks>

¹¹ Lee, K. Y. et al, 2017. Environmental and Occupational Health Impact of Bauxite Mining In Malaysia: A Review. IJU Medic, 16:2. Available at: http://iiumedic.net/imjm/v1/download/volume_16_no_2/IMJM-Vol16-No2-137150.pdf

¹² Lindqvist, Thomas. (2000). Extended Producer Responsibility in Cleaner Production. IIIIEE Dissertations 2000:2. Lund: IIIIEE, Lund University

¹³ <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32018L0851>

Principle 2 states that under the scheme, *“businesses will be incentivised to reduce unnecessary and difficult-to-recycle packaging, and to design and use packaging that is recyclable”*. We welcome the direction of this principle and its focus on reduction, but further clarity is needed to prevent a simple substitution with other single-use materials that are more recyclable, or for reductions achieved primarily through lightweighting - reducing the volume of packaging, rather than removing it from the shelf altogether. It is this latter, unit-based reduction which is important for reducing the impacts of pollution. For example, if a company achieved a reduction target by streamlining the weight of packaging, but did not reduce the quantity placed on the market, the number of items leaking into the natural environment may not actually decrease. Furthermore, lightweighting can encourage a shift into plastics like films and laminates which are non-recyclable and therefore have no role to play in a circular economy.

We therefore call for this principle to be rephrased to read *“businesses will be incentivised to reduce all non-essential and difficult-to-recycle packaging. Business will be incentivised to transition towards reusable and refillable packaging delivery models, and encouraged to make sustainable upstream sourcing and production decisions.”*

Principle 3 sets out that *“businesses will bear the full net cost of managing the packaging they handle or place on the market at end of life. Subject to this consultation, this should include the cost of collection, recycling, disposal, the clear-up of littered and fly tipped packaging, and communications relating to recycling and tackling littering”*.

We enthusiastically welcome and support the principle of producers covering the full net costs associated with the packaging they place on the market. However, environmental and social costs can arise across the full life cycle of packaging, and are not limited to end of life expenses. More information relevant to understanding and defining ‘full costs’ is contained in response to question 10. We urge the UK Government to change the wording of this principle from *“at end of life”* to *“across the full life cycle, including waste management”*.

Principle 4 says that that *“fees raised from obligated businesses will be used to support the management of packaging waste and the achievement of agreed targets and outcomes”*. Covering the costs associated with the management of packaging waste is an important function of EPR schemes, but as currently framed this principle fails to recognise the role of fees in internalising the full life cycle costs associated with packaging.

Fee levels should be designed to incentivize producers to make sustainable design and sourcing decisions. This can in turn address certain upstream problems – for example, through encouraging design choices that reflect best practices in forest management – as well as addressing downstream issues through enhanced recyclability and reuse. Eco-modulation of fees is the primary tool to embed and incentivise these decisions.

Fee levels which are determined primarily to collect a specified amount of money to cover the ‘full costs’ of dealing with packaging waste, without sufficient weighting given to the role fees play in incentivising better design, undermine the potential of EPR reform to catalyse a whole scale shift towards more sustainable packaging systems. Furthermore, this understanding would be in line with minimum requirements for EPR schemes introduced in 2018 under EU Directive 2018/851 which state that:¹⁴

(b) in the case of collective fulfilment of extended producer responsibility obligations, are modulated, where possible, for individual products or groups of similar products notably by taking into account their durability, reparability, re-usability and recyclability and the presence of hazardous substances, thereby taking a life-cycle approach ...

¹⁴ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L0851&rid=5>

We encourage the UK Government to include this function of the fees in the principles, either as part of principle four or in a new principle.

We agree with the general direction of **principles 5, 6 and 7**, although in each case prompt additional references to be made to support the reduction and reuse of packaging, in addition to recycling.

Principle 8 contains a welcome focus on transparency and accountability. We encourage a cautious approach to understanding the statement that *“costs to producers do not exceed those necessary to provide packaging waste management services in a cost-efficient way and are fair”* and suggest its replacement with *“costs to producers are appropriate to ensure environmentally and socially optimal outcomes are met efficiently”*. It is important that accountability mechanisms do not allow producers a disproportionate say in defining what is “necessary” or “fair”, as they may have commercial interests that substantially differ from those of the environment and public.

Principle 9 seeks to put measures in place *“to ensure packaging waste is managed in an environmentally responsible way, promote compliance and limit the opportunities for fraud and waste crime.”* Robust accountability and compliance measures are essential and will require independent, third party audits. We call on the UK Government to enshrine in principle 9 that these will be guaranteed under the new EPR scheme, with associated expenses built into the definition of ‘full costs’.

Finally, we propose a **tenth principle** to emphasise the need for the UK to progressively phase out reliance on exporting packaging waste overseas, and to stimulate a closed-loop circular economy within the country. More information on this proposal is contained in answer to question 69.

7. Do you agree with the outcomes that a packaging EPR should contribute to?

Yes.

The proposed outcomes present a significant improvement on the existing system. The failures of the current PRN system are well documented, allowing costs to fall disproportionately on taxpayers despite growing public appetite to reduce single use packaging. While this was always questionable, the current situation is even less sustainable given that local authority funding in England has been cut by 28% in real terms since 2010¹⁵.

Despite presenting an improvement on the status quo, crucially, the proposed principles fail to acknowledge that in the context of expected significant increases in plastic packaging production, what is required is not simply increased recyclability or weight-based reductions of packaging, but a systemic shift towards delivery models no longer reliant on single-use packaging.

This vision should be supported by ambitious, legally binding targets to drive reduction and reusability in the first instance, and could be introduced in the upcoming Environment Bill. We strongly encourage the adoption of more ambitious timelines for phasing out hard-to-recycle and hazardous materials, included but not limited to PVC, EPS and black plastic. In the Resource and Waste Strategy, the UK Government has proposed a timeline for the introduction of reformed EPR as 2023. With approximately 1.3 billion black plastic trays used in the UK every year, it would be negligent to let current practises to continue until that time frame, allowing mountains of non-recyclable packaging waste to continue to accrue. Meanwhile, there is inconsistency in the Westminster Government’s thinking on ‘problem’ plastics - in the England only household collections consultation, the Government has suggested it might want to include black plastic in the list of core materials to be collected by all councils.

¹⁵ <https://www.nao.org.uk/wp-content/uploads/2018/03/Financial-sustainability-of-local-authorities-2018.pdf>

We propose additional outcomes that the packaging EPR should contribute towards, underpinned by additional targets and measures,¹⁶ to achieve at a minimum:

- For a significant overall reduction in all but the most essential single-use packaging, achieved through a holistic approach which considers the many drivers behind its recent exponential growth. These include but are not limited to branding and marketing objectives, cost-reductions and economic efficiencies, the convenience market, length of supply chains and shelf life demands;
- For more packaging to be designed to be reused and refilled both by customers and producers, with supply chains redesigned to facilitate this wholesale shift, quantified in long-term reuse and refill targets;
- For packaging formats (composites, multi-layered laminates etc) and polymers (PVC, EPS etc) which are difficult to recycle to be phased out by the end of 2020;
- For hazardous substances to be completely and urgently removed from packaging;
- For the full life cycle costs to be internalised by producers, with fees modulated to incentivise packaging design that minimises upstream impacts (including through responsible sourcing and low-impact production) and covers downstream costs (including through enhanced reuse and recyclability);
- For the creation of an environmentally and socially level playing field between UK and overseas waste processors, progressively phasing out reliance on exporting packaging waste overseas and stimulating a closed-loop circular economy within the UK.

8. Do you think these types of items not currently legally considered as packaging should be in scope of the new packaging EPR system?

Yes.

Single-use packaging-type items such as foil, cling film, jiffy bags, paper cups and sandwich bags are currently not legally considered as packaging; despite many of these items being consumed in a similar way to packaging eligible under EPR regulations. There is a risk that if these are not considered in the scope of the system, there may be a significant rise in their usage; providing a loophole and encouraging market distortions – for example, online retailers may switch to extensive use of jiffy bags. Excluding these items may discourage a shift to reusable packaging formats – for example, if retailers provided more unpackaged goods and loose ranges, but customers used non-eligible packaging types to collate these. Many of the items not currently legally considered as packaging are extremely hard to recycle, so a rise in their consumption risks undermining recycling targets.

9. Which of these two classifications best fits with how your business categorises packaging?

Neither.

10. Do you agree with our definition of full net cost recovery?

No, it does not fulfil the Polluter Pays Principle.

We strongly welcome and support the UK Government's intention to incorporate 'full net cost recovery' into EPR, in line with the Polluter Pays Principle (PPP). The PPP was first recognised in 1972 by the Organisation for

¹⁶ For example, targets related to a significant overall reduction in single use packaging; targets to boost the proportion goods delivered by reusable and refillable packaging models; targets to phase out difficult to recycle packaging polymers and formats; and targets to phase out use of toxic and hazardous substances in packaging.

Economic Co-operation and Development (OECD), requiring polluters to internalise the cost of potential pollution in the production process (built-in costs), rather than allowing society to incur costs in the aftermath.¹⁷ In order to meet the PPP, EPR reform should take into account the full environmental impact of packaging throughout its life cycle, including upstream impacts arising from the choice of materials and manufacturing processes.

All packaging materials have an environmental and social footprint, in particular those sourced primarily from virgin materials. There is a growing evidence that at every stage of its lifecycle, plastic poses distinct risks to human and environmental health: from the extraction and transportation of fossil fuel feedstocks, to refining and production of plastic resins and additives, to plastic waste management (particularly issues arising from “waste-to-energy” and other forms of incineration), through to the wide-ranging and near-permanent harm that micro and macro-plastic pollution imposes if it escapes into the natural environment.¹⁸

Another environmental cost incurred through plastic manufacturing is pre-production pellet loss, which is the second-largest direct source of marine microplastic pollution by weight.¹⁹ Pellets used to manufacture all plastic products escape into waterways if spills occur, which can happen at each stage of the production, transport or conversion process. Research estimates that as many as 53 billion pellets could enter the environment from spillages by companies across the UK plastic supply chain each year.²⁰ The largest market for plastics is packaging, representing over a third of the total demand for polymers,²¹ suggesting that a significant proportion of this pellet loss might be attributed to plastic demand for packaging.

A simple substitution of single-use plastic packaging for other single-use materials must be cautioned against as it could drive an increase in demand for virgin materials such as aluminium and pulp, with negative environmental and social consequences. Problems associated with bauxite mining for aluminium include air, water and soil pollution; leaching of bauxite into water sources resulting in reduced soil fertility, affecting agricultural food products and aquatic life; and negative health consequences for miners and surrounding communities, such as increased respiratory symptoms, contamination of drinking water and other health risks from ingestion.²² A rising demand for paper and pulp-based packaging could exacerbate risks of deforestation and degradation risks where forests are not sustainably managed,²³ with continued expansion of logging into previously unlogged areas including ancient and endangered boreal forests.

In line with the PPP, these concerns could be addressed through an EPR scheme which incentivises producers to address upstream life cycle concerns at the design stage through effective eco-modulation of fees. In line with the waste hierarchy, prevention and reduction of virgin materials should be given primary consideration as the most effective tool to avoid these risks altogether, in parallel to design for reuse.

¹⁷ Pearce D & Helm D, Oxford Review of Economic Policy, 19(3):438-50, 1990.

¹⁸ CEIL report as above

¹⁹ <https://www.eunomia.co.uk/reports-tools/investigating-options-for-reducing-releases-in-the-aquatic-environment-of-microplastics-emitted-by-products/https://www.ciel.org/wp-content/uploads/2019/02/Plastic-and-Health-The-Hidden-Costs-of-a-Plastic-Planet-February-2019.pdf>

²⁰ Eunomia, Study to Quantify Pellet Emissions in the UK (2016), available at <http://www.eunomia.co.uk/reports-tools/study-to-quantify-pellet-emissions-in-the-uk/>

²¹ Production, use, and fate of all plastics ever made BY ROLAND GEYER, JENNA R. JAMBECK, KARA LAVENDER LAW *SCIENCE ADVANCES* 19 JUL 2017 : E1700782

²² Lee, K. Y. et al, 2017. Environmental and Occupational Health Impact of Bauxite Mining In Malaysia: A Review. *IJU Medic*, 16:2. Available at: http://iiumedic.net/imjm/v1/download/volume_16_no_2/IMJM-Vol16-No2-137150.pdf

²³ Environmental Paper Network, 2019. The Paper and Packaging Boom: A growing wave of pulp production threatens the world's forests and climate. Available at: <https://environmentalpaper.org/2019/03/the-paper-and-packaging-boom-a-growing-wave-of-pulp-production-threatens-the-worlds-forests-and-climate/>; Innovation Forum, 2019. Packaging drives pulp's deforestation risks. Available at: <https://innovation-forum.co.uk/analysis.php?s=packaging-drives-pulps-deforestation-risks>

11. Do you agree that producers should be required to fund the costs of collecting and managing household and household-like packaging waste, i.e. all consumer facing packaging?

Yes.

We strongly agree that all household-like packaging must be covered under a new EPR scheme. This would also be coherent with Westminster Government's commitment in the consultation on consistent collection for *'businesses, public bodies and other organisations that produce municipal waste [i.e. household like waste] to separate dry recyclable material from residual waste so that it can be collected and recycled'*, which we also welcome. In line with our previous answers, we believe that the UK Government should apply a life cycle approach to consider other externalities associated with packaging.

12. Do you agree that packaging for commercial/industrial applications should be out of scope for full net cost recovery?

No

We disagree that commercial/industrial packaging applications should be left out of scope of EPR. The consultation notes that businesses pay for their waste services, however, this payment does not act to internalise environmental and social costs incurred through the packaging's lifecycle, nor does it consider the consequences if firms opt for end-of-life options such as landfill or incineration.

Furthermore, there is a risk that excluding this category of packaging could lead producers to increase their usage of secondary and tertiary packaging. Information from engagements with retailers suggest that for certain product lines, reductions in consumer-facing packaging can lead to an increase in secondary packaging further up the supply chain. For example, loose bananas that customers find on the shelf may have been delivered to the store in packaging to protect and ripen the goods. One supermarket reported that they reduced 18 tonnes of secondary packaging through switching to primary packaging produce bags for bananas, showing how trade-offs can be made.²⁴

Producers seeking to reduce packaging along the supply chain can struggle to do so, particularly if they are a small company with limited control over larger suppliers on the commercial/industrial side. If commercial/industrial packaging applications are left out of scope of the EPR, this struggle may continue, providing limited incentive to drive packaging reductions or shift to reusable delivery modes.

13. We would welcome your views on whether or not producers subject to any DRS should also be obligated under a packaging EPR system for the same packaging items.

No, they should not.

Subject to the following conditions being met, we believe obligated producers could meet their producer responsibilities through the DRS:

- Any drinks containers that are excluded from DRS are subject to modulated producers fees to drive reuse and recyclability
- Any packaging used in the delivery of these drinks containers to consumers that is not included in a DRS is subject to modulated fees that disincentivises their use, for example, packaging around multi-packs

²⁴ Information gained in correspondence between the Environmental Investigation Agency and Waitrose

- Funds raised by a DRS through unreclaimed deposits are required to fund system improvements and increase return rates, so as to prevent producers profiting from an inefficient system
- The deposit management organisation (DMO) should be responsible for meeting ambitious collection, recycling and reuse targets set by the UK Governments

Producers subject to a DRS shouldn't be unfairly advantaged (i.e. if they are able to retain unclaimed deposit fees), and funds must be used to improve the system overall. The DRS scheme, in line with the waste hierarchy should, in the first instance, enable refill options for glass bottles. Beyond this, the collection infrastructure installed for the DRS scheme can be built upon to create a system for refill as is beginning to happen organically in places such as Oregon, USA.²⁵ The UK Governments should see DRS for recycling as a first step towards creating a circular economy and begin looking at how companies can build in refill in the future.

14. Do you agree with the development of an 'approved list' of recyclable packaging to underpin the setting of either modulated fee rates or deposits?

Yes.

We strongly agree with the development and adoption of an 'approved list' to underpin the setting of either modulated fee rates or deposits. This will be an essential mechanism for ensuring environmentally optimal design of products. To date, few EPR schemes have successfully developed mechanisms to ensure producer fees reflect prevention, reuse and recyclability criteria to favour better design at an industrial scale.²⁶ We encourage the UK to cement its position as a global leader on the circular economy and adopt a pioneering approach. Noting that the UK Government seeks to consult on the 'approved list' at a later stage, we propose notions below to shape thinking around its development.

- **Incentivising reuse as well as recyclability:** Foremost, the approved list must be designed to incentivise design for reuse in addition to recyclability of packaging. This would be in line with Article 8 of the EU Waste Framework Directive, and could build on existing standards for assessing reusability criteria such as EN 13429:2004. Packaging which is designed to meet the fulfilments of these criteria should be exempt from fees, with criteria to encourage firms to maximise the number of rotations for reuse. Other ideas to consider could include the introduction of standardised packaging formats for items such as bottles, takeaway containers and tubs; allowing for the same design to be reused and refilled by different brands and product lines.
- **Incorporating responsible sourcing and production criteria:** Upstream sourcing and production criteria should be considered in the approved list, incentivising responsible design and procurement. This could include but is not limited to best practices in sustainable forestry, maximising recycled content (noting that the proposed 30% tax on recycled content is only relevant for plastic packaging), ensuring best practices in pre-production pellet loss prevention have been applied through the plastic supply chain, and encouraging use of renewable energy in packaging manufacture.
- **Narrowing down 'recyclable':** When developing the list, careful consideration must be given to how 'recyclable' packaging is defined. Nearly all packaging materials can technically be recycled, but the list must only include those formats and polymers that are in practice widely collected, sorted and reprocessed at scale, with an end market for the secondary material. This should not include items which are theoretically recyclable but are not currently due to a lack of economic

²⁵ <https://www.oregon.gov/deg/recycling/Pages/Bottle-Bill.aspx&sa=D&ust=1556535021687000&usg=AFQjCNGRs8byT7hMM5 lbGK7Qr-5sD1E8g>

²⁶ https://www2.deloitte.com/content/dam/Deloitte/fr/Documents/sustainability-services/deloitte_sustainability-les-filieres-a-responsabilite-elargie-du-producteur-en-europe_dec-15.pdf

scale (such as PLA) and therefore commonly sent to landfill or incineration, or risk contaminating existing recycling systems.²⁷

- In line with EU Article 3(17) of the Waste Framework Directive, definitions of recycling must not include “*energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations*”.²⁸ We also urge caution around forms of chemical recycling which have high energy demands, and therefore a much higher carbon footprint than mechanical recycling.²⁹ In order to create a truly circular economy, preference should be given to packaging that can be recycled within a closed-loop system into an equivalent application; for example, food grade PET to food grade PET – rather than downgraded into lower value materials, such as for use in park furniture.
- **Removal of harmful and toxic chemicals:** Plastic packaging can contain harmful chemical additives including stabilisers and plasticisers, such as phthalates, as well as chlorinated, brominated and fluorinated compounds.³⁰ These pose risks to human health and can leach into the environment. We urge for no packaging containing hazardous substances to be included on the ‘approved’ list and for these to be urgently phased out.
- **Narrowing down ‘essential’ packaging requirements:** There are many drivers behind the recent proliferation of single-use packaging, of which product preservation is just one. Other factors include branding and marketing aims, cost-reductions and economic-efficiencies, the length and complexity of supply chains, the convenience market and other features and demands of modern consumerist lifestyles.³¹ Whilst reversing these trends will require an holistic approach, the ‘approved list’ presents an opportunity for the UK to incentivise companies to focus on using packaging only in the most essential applications. Concerns about competitive losses due to a loss of marketing and branding objectives served by packaging could be overcome by levelling the playing field, establishing and enforcing more stringent, industry-wide rules to prevent all but the most essential packaging applications.
- **Urging caution on non-conventional plastics.** We deeply caution against a move into non-conventional plastic ‘alternatives’, including bio-based, compostable and biodegradable plastics. These should not be included on the ‘approved list’. Foremost, they continue to pose a risk to terrestrial, aquatic and marine wildlife as they require conditions for biodegradation that are not met in the natural environment. For example, some need prolonged exposure to temperatures of more than 50°C.³² Their wide-scale adoption could present additional problems such as complicating waste collection and recycling systems, as well as causing microplastic pollution if the conditions required for full biodegradation are not met. Most bio-based plastics are produced from agro-based feedstock,³³ requiring an estimated 600,000 hectares to produce 1.6 million tonnes in 2013 – a fraction of the total demand for plastics (< 0.5% of 2015 total

²⁷ <http://tema.miljodirektoratet.no/Documents/publikasjoner/M1206/M1206.pdf>

²⁸ <https://eur-lex.europa.eu/legal-content/En/ALL/?uri=celex%3A32008L0098>

²⁹ Grigore, M. 2017, Methods of Recycling, Properties and Applications of Recycled Thermoplastic Polymers. Recycling 2017, 2, 24; doi:10.3390/recycling2040024

³⁰ Ellen MacArthur Foundation, The New Plastics Economy: Rethinking the Future of Plastics (2016), pp. 29-30.

³¹ For example, see http://www.foeeurope.org/sites/default/files/materials_and_waste/2018/unwrapped_-_throwaway_plastic_failing_to_solve_europes_food_waste_problem.pdf; <http://www.arena-international.com/Journals/2018/03/21/v/i/o/GlobalData---Dominic-Cakebread.pdf>

³² European Bioplastics, 2009. Industrial Composting. Available at: https://docs.european-bioplastics.org/2016/publications/fs/EUBP_fs_industrial_composting.pdf

³³ Ißbrücker, C., 2018. How much land do we really need to produce bio-based plastics? Available at: <https://www.european-bioplastics.org/how-much-land-do-we-really-need-to-produce-bio-based-plastics/>

demand).³⁴ If their production is scaled up, land-use demands could bring about competition with agriculture and cause biodiversity loss.³⁵

Eco-modulation of fees must be sufficiently granular and differentiated to provide a clear incentive that tips the cost-benefit analysis in favour of reusable/refillable, sustainably sourced and recyclable packaging design choices. Furthermore, fees must be unit-based, rather than tonnage based. Examples from Europe show that weight-based fee structures have led to a focus on light-weighting, rewarding lighter but less recyclable materials. This was the case in Sweden, where packaging EPR led to a 50% reduction in average packaging weight, attributed to increase in use of hard-to-recycle plastic laminate.³⁶ Unit-based fees can be seen under the French scheme, which is considering modulation by Consumer Sales Unit (CSU) – product units that a consumer can buy separately.³⁷

15. Do you think the payment of modulated fees or the payment of deposits with the prospect of losing some or all of the deposit would be more effective in changing producers' choices towards the use of easy to recycle packaging?

Whichever of these two systems are introduced, we reiterate that they should be implemented as a mechanism for encouraging design for reduction and reuse, and embedded within the system should be the need for eco-modulation which is sufficiently granular and differentiated to tip the cost-balance in favour of responsible design.

A deposit-based system could theoretically be more effective in achieving the UK Government's proposed outcome of driving unrecyclable material off the market - this approach bears some similarities to the Norwegian producer tax which has directly incentivised producers of beverages to achieve recycling rates of 95% or higher. However, our concern is that this system is untested across all packaging materials, and could be significantly more complicated to implement in the short term and could also be more susceptible to fraud and mismanagement. This is especially true as it would likely impose much higher immediate costs on producers, especially at the start when there is limited reprocessing capacity, greatly increasing the incentive to misreport figures or otherwise defraud the system.

Therefore, in the event that UK Government elects to use modulated fees as the mechanism to achieve their proposed outcomes, we would strongly advise the framing of these proposed measures as a first step in a longer-term plan for managing packaging waste. This should include time-bound periodic reviews of the system and a commitment to exploring the introduction of a deposit-based model in future, if the modulated fee system does not achieve the desired environmental outcome.

16. Do you think there could be any unintended consequences in terms of packaging design and use arising from: (a) Modulated fees (b) Deposit (for recyclable packaging) and fee (for non-recyclable packaging)?

- a) Modulated fees
- b) Deposit

³⁴ Bioplastics, 2015. Frequently Asked Questions on Bioplastics. Available at: www.corbion.com/base/DownloadHelper/DownloadFile/7462

³⁵ CE Delft, 2017. Biobased Plastics in a Circular Economy Policy suggestions for biobased and biobased biodegradable plastics. Available at: <https://www.ce.nl/publicaties/download/2405>

³⁶ <https://ieep.eu/uploads/articles/attachments/9665f5ea-4f6d-43d4-8193-454e1ce8ddfe/EPR%20and%20plastics%20report%20IEEP%2019%20Dec%202017%20final%20rev.pdf?v=63680919827>

³⁷

https://www.citeo.com/sites/default/files/inside_wysiwyg_files/Rate%20table%202018%20packaging%20english%20february%202018.PDF

As mentioned previously, modulated fees must be used as a mechanism to drive reduction of packaging and reuse, and should meet the following criteria:

- Any fee structure should penalize poor outcomes or incentivise better product and packaging design, such as reduced fees for reusables, penalisations for products or packaging with multiple types of materials or containing hazardous chemicals or components that disrupt recycling processes.
- These differentiated fees should apply to each individual producer according to their product or packaging design, to incentivise redesign where necessary and reward those who surpass the minimum requirements of the 'approved list'.

As previously noted, weight-based fees can lead to the adoption of lighter forms of packaging such as hard-to-recycle films and laminates. Instead, fees should be introduced on a per unit basis - similar to the system currently in operation in France, where fees can be modulated by Consumer Sales Unit (CSU) i.e. a single product unit that a consumer can buy. The sugar tax is another example of a per-unit financial tool that has been implemented easily.

We would also raise the risk that if an EPR scheme does not have redesign for reuse embedded as an intended outcome of its fee structure, it could actively discourage the use and uptake of reusables. For example, the Belgian Fost Plus scheme has enhanced results in collection and recycling despite the lack of eco-modulation of fees, but can also be said to have contributed to a decline in the market for refillable beverage containers between 2003 and 2011.³⁸

17. Do you agree that the deposit approach should be designed to incentivise more closed loop recycling?

Yes.

We strongly recommend that closed-loop recycling, or more preferably, closed loop refillable packaging, should be encouraged through the EPR system.

18. What do you consider to be the most appropriate approach to a single point of compliance, the Brand-owner or the Seller approach?

Brand owner.

We approve of the shift to a single point of compliance, as the most effective means of ensuring the accountability necessary to inspire responsible design decisions. Brand owners and retailers seem well placed to take responsibility for these changes and drive changes along the supply chain. To support this, the UK Governments need to introduce monitoring to ensure this outcome is achieved.

19. If a single point of compliance approach was adopted, do you think the de-minimis should be: (a) Replaced with a lower turnover threshold? (b) Retained and wholesalers and direct-to-retail sellers take on the obligation of those below the threshold? (c) Other, please state (d) Don't know

Replaced with a lower turnover threshold.

It is clear that the de minimis threshold for packaging obligation should be reviewed. 60% of packaging producers are currently not subject to PRN obligations and as such are not bearing financial responsibility for

³⁸ <https://ieep.eu/uploads/articles/attachments/750b4c86-75d6-4016-8e1b-da2e69d2ded9/BE%20Packaging%20Tax%20conference%20draft.pdf?v=63673818840>

the type of packaging they are putting on the market. As highlighted by the National Audit Office, the de minimis threshold has also led to a lack of accounting of non-compliance for firms that fall beneath the threshold, which has more than likely contributed towards the level of fraud within the PRN system. As such, we would advocate for the de minimis to be substantially lowered, if not removed entirely, in line with other European EPR schemes.

Research by Eunomia has suggested that UK Government should reduce the de minimis requirements for participation in a producer responsibility scheme to include companies that place more than 1 tonne of packaging on the market. In this model, for those that remain below the threshold we would seek for wholesalers and direct sellers to take on their packaging obligations so as not to place disproportionate regulatory burden and upfront costs on smaller businesses (in line with the EU Waste framework directive) and to drive use of less environmentally harmful packaging at source.

20. Should small cafés and restaurants selling takeaway food and drinks whose packaging is disposed ‘on the go’ be exempt from being obligated?

No.

Takeaway packaging is among the categories most often identified as problematic in terms of littering and escaping collection for recycling. Therefore, it is important that the new EPR scheme covers all firms responsible for placing this category of packaging on the market. It would be consistent to ensure that all companies are incentivised to make sustainable design decisions and contribute a fair share to cover the costs of the externalities associated with their products and operations.

21. If shared responsibility is retained, is Option A or Option B preferable for including smaller businesses or the packaging they handle in the system?

Other.

As mentioned above, an effective system would lower or remove the de minimis to bring a wider range of businesses into the new EPR scheme, while also ensuring that any heavy upfront costs were progressively levelled on larger businesses who could drive systemic changes in packaging delivery.

22. If you have stated a preference for A, do you think the de-minimis threshold should: (a) Be reduced (please state your suggested threshold) (b) Be removed entirely

Be removed entirely. See above for reasoning.

23. Overall, do you have a preference for maintaining a shared responsibility compliance approach, or moving to a single point of compliance?

Single point of compliance.

A single point of compliance has tended to ensure lower administrative cost and ease of administration of producer fees, therefore ensuring more effective EPR schemes, in other European countries.³⁹

24. Do you have a preference for how small businesses could comply?

³⁹ http://ec.europa.eu/environment/waste/pdf/target_review/Guidance%20on%20EPR%20-%20Final%20Report.pdf

An allocation formula.

Following a meeting that CPRE set up with small producers at which representatives from Defra and Treasury were present, we urge both departments to follow up with small producers as discussed to further understand the realities of their businesses and how they can best comply with producer responsibility. We encourage the UK Government to apply an allocation formula which considers sustainability criteria as well as tonnage (or preferably, unit-based data), acting as an incentive for small businesses to incorporate better measures.

25. Do you think that requiring operators of online marketplaces to take the legal responsibility for the packaging on products for which they facilitate the import would be effective in capturing more of the packaging that is brought into the UK through ecommerce sales?

We strongly agree that operators of online marketplaces should be included in these measures as they should be required take full account and responsibility for all products they sell on the UK market. We encourage the UK Government to investigate this area further, as there are risks that given the difficulty of enforcing producer responsibility in this area there will continue to be loopholes, for example in peer-to-peer trading platforms such as eBay or Etsy. These kind of sites are forecast to expand and have a greater role in the retail sector.

This approach would be consistent with EU Directive 2018/851, amending Directive 2008/98/EC on waste, in relation to the minimum requirements for EPR schemes, paragraph 1 of Article 8a, which states the following:

Where extended producer responsibility schemes are established in accordance with Article 8(1), including pursuant to other legislative acts of the Union, Member States shall: (...)

*(d) ensure equal treatment of producers of products **regardless of their origin or size**, without placing a disproportionate regulatory burden on producers, including small and medium-sized enterprises, of small quantities of products*

There are a number of short-term measures that the UK Government could explore in order to effectively and simply ensure compliance of online operators:

- UK Governments could require the development of a single, harmonised electronic register of producers for each jurisdiction, to be published on the competent authority's website.
- In tandem, the development of simple mechanisms to allow Producer Responsibility Organisations, and registered producers and distributors, to report any suspected free-riders would assist enforcement.
- At the same time, UK Governments could consider building the ability to prosecute a company for illegal action in another country or territory into EPR legislation in order to facilitate enforcement

In the long-term, we would advise the UK Governments to explore infrastructure improvements to account for the growth of online retail and also to support the development of innovative reverse logistics/backhauling solutions that are capable of handling this waste and could be another form of producer obligation (in the way packaging producers have invested directly into initiatives such as Loop).

26. Do you agree payments to local authorities for collecting and managing household packaging waste should be based on: (a) provision of collection services that meet any minimum standard requirements (by nation); (b) quantity and quality of target packaging materials collected for recycling; (c) cost of managing household packaging waste in residual waste.

A combination of all three proposed factors need to be considered when deciding upon payments for local authorities. All authorities should be mandated to work towards (a), the goal of providing collection services that meet minimum standard requirements; however, it is not necessarily constructive to penalise local authorities through withholding payments if they are unable to meet these criteria. Without adequate resources, authorities may be less able to achieve these standards, creating a vicious circle of non-compliance. For this reason, option (c) – the true cost of managing household packaging at a minimum required standard – should be reflected in the fee payments, with consideration of the quantity and quality of packaging materials collected and processed for recycling (option (b)).

27. Do you think we have considered all of the costs to local authorities of managing packaging waste?

No.

As outlined in our response to question 6, EPR reforms must consider environmental costs beyond end-of-life disposal, otherwise they are failing to fulfil the polluter pays principle. These costs could be internalised into the scheme through modulation to inspire design for reduction and reusability, as well as sustainable sourcing (with different standards depending on the packaging material). The consequences of irresponsible sourcing – for example, pre-production plastic pellet loss, or use of harmful chemical additives – could be monetised and applied to producers.

The UK Governments could consider other support measures to help local authorities meeting EPR targets. For example, the Irish voluntary EPR scheme, Repak, through its “Prevent and Save” initiative, provides free packaging surveys to Repak member companies. The survey is conducted by a packaging technologist, and based on it, a confidential report is compiled and submitted to the member company with recommendations outlining the main target areas for packaging optimisation, preventing in total an estimated 520,000 tonnes of packaging between 2005 and 2013, with costs savings for member companies of approximately €213 million.⁴⁰

Similarly, in Romania the organisation Eco-Rom Ambalaje provides prevention plans for generated waste which are free of charge for companies and offers technical guides for waste prevention on its website; and in Luxembourg, the SuperDrecksKëscht initiative provides advisors supporting companies by regular visits and training for their staff. The UK could consider adopting a similar advisory scheme to help businesses move towards reduction and reusables, in order to reduce costs to producers and local authorities.

The UK Governments should also consider consulting on variable charging, or ‘pay as you throw’ schemes, in order to ensure that, while producers bear the primary costs and responsibility for the packaging they produce, accountability for bad practice exists along all points of the waste disposal chain, including consumers.

28. Do you agree with our approach to making payments for the collection of household-like packaging waste for recycling?

Neither agree nor disagree.

29. Should businesses producing household-like packaging receive a payment for the costs of household-like packaging waste in residual waste?

Neither agree nor disagree.

⁴⁰

http://ec.europa.eu/environment/enveco/resource_efficiency/pdf/studies/RE_in_Business_M9_Measures_supporting_EPR.pdf

30. Are there other factors, including unintended consequences that should be considered in determining payments to: (a) Local authorities? Please explain the reasons for your response and provide any information to support your view (b) For the collection and recycling of household-like packaging waste?

It is critical to ensure that 'recycling' is clearly defined so as not to include energy from waste or waste that is exported. The UK Government should implement a timebound phase down on the export of waste and introduce a tax on incineration to disincentivise this being an acceptable method of waste management.

31. Do you have any information that would help us to establish the costs incurred by local authorities and other organisations of cleaning up littered and fly-tipped packaging items?

No.

32. How do you think producer fees could be used to improve the management of packaging waste generated on-the-go?

There is no practical way to define or distinguish 'on-the-go' packaging uses in the first instance, particularly if this term is used as a means of limiting the breadth of waste policy measures such as DRS or EPR reforms. As mentioned, the fundamental aim of producer fees should be to incentivise packaging-free product delivery, redesign for reusability and redesign for recyclability in that order. Many packaging items included in this category - including bottles, coffee cups and food containers, lend themselves well for reusable solutions. We suggest the UK Government prioritises the scaling up of these solutions.

33. Do you have any information that would help us to establish the costs of collection and disposal of increased on-the-go provision?

When calculating the costs associated with end-of-life solutions, we strongly encourage the UK Government to consider the potential cost savings available through reducing this waste stream altogether through greater emphasis on reusable solutions.

34. Do you agree that provision for the take back of single-use disposable cups for recycling should continue to be developed on a voluntary basis by business prior to a government decision on whether disposable cups are included under an EPR scheme or DRS? 53 (a) Yes (b) No (c) I neither agree nor disagree

No.

In a circular economy, there is no place for a single-use cup. Ultimately, the UK Governments aim should be to completely phase these out through a ban on their sale. One retailer, Boston Tea Party, has taken a lead, becoming the first chain in the UK to end sales of disposable cups, with customers having to use their own, or borrow a reusable cup⁴¹. While this move has prevented 125,000 cups going to landfill, it also resulted in the firm seeing a £250,000 drop in sales.⁴² Retailers should not be penalised for putting planet over profits, instead the UK Governments should be facilitating a level playing field.

In the short term, the UK Governments could introduce a charge for single-use cups at the point of sale to encourage reduction in their use, with application across all cups with plastic linings and not just exclusively applicable to cups designed for hot drinks. This includes single-use cups that are classified as 'biodegradable', 'oxodegradable' or 'bioplastic'. Our view, as outlined in our submission to the Treasury's call-for-evidence on

⁴¹ <https://bostonteparty.co.uk/cups/>

⁴² <https://www.bbc.co.uk/news/uk-england-bristol-47629820>

single-use plastic⁴³, is that these materials should be treated in the same way as any traditional polymer plastic.

While there were discussions within the Westminster Government regarding the introduction of a 'latte levy', the idea was disappointingly scrapped- meaning another 2.5 billion cups will enter the waste stream by the time of this Autumn's Budget. The Treasury has committed to revisiting this levy if industry cannot be shown to have made significant improvements within one year, although as noted above we see this as an intermediary step until these single-use items are phased out altogether.

In the Scottish Government's February 2019 budget, the Finance Secretary committed "in principle" to introducing a charge on disposable drinks cups.⁴⁴ Their Expert Panel on Environmental Charges and Other Measures have now put forward a range of proposed measures, which they are currently discussing with a range of stakeholder groups. We welcome the ambition of these measures, and particularly support the following suggestions:

Prevention

- Introduce mandatory charges for single use disposable beverage cups or require cups to be sold separately from drinks (with option of minimum pricing)
- Ban the sale of non-recyclable polystyrene/PVC, in line with EU SUP directive ambitions by 2021

Promoting re-use

- Support the roll-out of reusable cup rental or 'mugshare' schemes at national or local level through legislation

In addition to these ambitious suggestions from the Scottish Government, we advocate for a ban on single use cups made from "biodegradable" or "compostable" materials. There is insufficient standardisation and knowledge of these materials, and we do not have appropriate infrastructure to deal with these items at their end of life. It would be an expensive distraction to spend time and money creating a suitable infrastructure for these items when the overall goal is to move away from single use items.

35. Do you think the recycling of single-use disposable cups would be better managed through a DRS or EPR scheme? (a) DRS (b) EPR (c) Both (d) None of these options.

None of these.

As noted in question 34, it is our view that single-use disposable cups are an example of a plastic item that should be phased out as soon as is possible. Producer obligations could be a mechanism for achieving this if fees were set appropriately high, but we think it would be preferable for the UK Governments to introduce a tax on single-use cups at the point of sale to encourage reduction in their use, rather than risking material switching.

36. Do you think a recycling target should be set for single-use disposable cups?

No. See above.

⁴³

<https://www.wcl.org.uk/docs/Wildlife%20and%20Countryside%20Link%20submission%20to%20tackling%20the%20plastic%20problem%20consultation.pdf>

⁴⁴ <https://www.bbc.co.uk/news/uk-scotland-scotland-politics-47292029>

37. Should producer fees be used to support local service related communications delivered by local authorities?

Yes.

We strongly agree with the principle that consumer communication should be accounted for within producer fees. These should be delivered in line with the requirements of EU Directive 2018/851, amending Directive 2008/98/EC on waste, in relation to the minimum requirements for EPR schemes, which states:

'Member States shall take the necessary measures to ensure that the waste holders targeted by the extended producer responsibility schemes established in accordance with Article 8(1), are informed about waste prevention measures, centres for re-use and preparing for re-use, take-back and collection systems, and the prevention of littering. Member States shall also take measures to create incentives for the waste holders to assume their responsibility to deliver their waste into the separate collection systems in place, notably, where appropriate, through economic incentives or regulations.'

This is supported by a number of studies that suggest that in EPR schemes where producer responsibility organisations support communication campaigns, there is increased success in meeting environmental objectives.⁴⁵

38. Should producer fees be used to support nationally-led communications campaigns in each nation?

Yes.

In tandem with the Westminster Government's measures to ensure consistent collections of household waste, nationally-led communication campaigns could be effective in delivering a single, shared understanding amongst consumers, decreasing confusion and the likelihood of mistaken or poor practice in what is thrown away.

Communication campaigns should, however, not be a means by which producers are allowed to 'offset' responsibility for fundamentally reducing and redesigning their packaging. We would advocate for a producer responsibility organisations established in each nation to establish clear guidelines for and maintain oversight of any communication campaigns.

39. Are there any circumstances where producers should be exempt from contributing to the cost of communications campaigns?

No.

40. Do you agree it should be mandatory for producers to label their packaging as Recyclable/Not Recyclable?

Yes.

41. Do you think that the percentage of recycled content should be stated on product packaging?

I neither agree nor disagree.

⁴⁵ https://www2.deloitte.com/content/dam/Deloitte/fr/Documents/sustainability-services/deloitte_sustainability-les-filieres-a-responsabilite-elargie-du-producteur-en-europe_dec-15.pdf

43. Do you have any other proposals for a labelling system?

As discussed in answers to previous questions, labelling and communications must be designed to encourage and incentivise reduction and reusability, as well as recycling. To account for non-waste related environmental and social externalities associated with packaging, information could also be included to inform citizens about toxic chemical used and whether the material was sourced in a sustainable way.

44. Do you have experience to suggest an appropriate lead-in time for businesses to incorporate any mandatory labelling requirements?

From our knowledge of the packaging process, we believe a 24-month timeframe is sufficient for relevant updates to packaging artworks. This is in line with the Food Information Regulation updates on nutrition and allergen information which came into effect in December 2014 with implementation required across all packaging by December 2016.

45. In your view, are the estimates made in the Material Flow reports for packaging waste arising the best available data?

No.

We welcome the Westminster Government's acknowledgement in their Waste and Resources strategy of the fact that:

- A. Packaging data, particularly for packaging that is sold commercially, is currently 'patchy and unreliable'
- B. Paucity of reliable data has allowed for over-reporting of recycling rates⁴⁶, fraud and negligence in the waste system - 'if you can't measure it, you can't manage it'
- C. Ensuring coherent, reliable and regular reporting of data from producers will be critical to improving our waste system and creating a circular economy

We also warmly welcome the measures suggested in the strategy to tackle this issue, such as improved digitization and data technology.

It is important for the UK Government to be highly critical of the current methodology for reporting packaging use. While weight-based reporting is attractive in its simplicity and coherence, there are significant risks that setting weight as the key criteria for reporting reduction of packaging use will encourage producers to rely on lightweighting and use of hard-to-recycle films and linings to meet their obligations as producers, rather than finding alternative, packaging-free delivery models for their products.

46. Are you aware of any other factors which may affect the estimates of packaging waste entering the waste stream?

Don't have enough information.

47. In your view, are there other factors which may affect the amounts of obligated tonnage reported?

Don't have enough information.

⁴⁶ <https://www.eunomia.co.uk/reports-tools/plastic-packaging-shedding-light-on-the-uk-data/>

48. Do you agree with the packaging waste recycling targets proposed for 2025?

No.

We would argue that these proposed targets are unambitious and inadequate to meet both the need for minimising waste leaking into the natural environment and concerns from the general public on plastic pollution.

We propose that in line with the waste hierarchy, reduction and reusability targets are also set in the UK as a means to measure the success of the EPR. This would be in line with the recent EU Directive 2018/851 amending Directive 2008/98/EC on waste, which states:

(30) The promotion of sustainability in production and consumption can contribute significantly to waste prevention. ... As part of measures to reduce waste generation, Member States ... may include ... the setting of quantitative targets, and provide, as appropriate, adequate economic incentives to producers.

....

(43) The targets for preparing for re-use and recycling of municipal waste should be increased in order to deliver substantial environmental, economic and social benefits and to accelerate the shift towards a circular economy.

Examples of these being introduced across Europe include Austria's new target to reduce plastic packaging 20-25% by 2025,⁴⁷ and the German Packaging Law (Verpackungsgesetz, VerpackG) refillable quota of 70% for beverage packaging, with a political instrument currently being considered to achieve the target.⁴⁸

49. Do you agree with the packaging waste recycling targets proposed for 2030?

Please refer to our answer to Q48.

50. Please provide your views on the policies and actions that could help us achieve an even higher overall packaging recycling rate, for example 75%, as well as your views on the costs associated with doing so.

As we detail in our response to the Westminster Government's consultation on a deposit return scheme (DRS) for drinks containers in England, Wales and Northern Ireland, a well-designed DRS has been proven to be an effective method for significantly increasing recycling rates for drinks containers. Deposits could be applied to other packaging items such as takeaway food containers. 'Pay as you throw' could also be used to drive up recycling uptake of highly-littered items.

52. Should a proportion of each material target be met by "closed loop" recycling, e.g. as is the case for glass recycling targets?

We strongly recommend that close loop recycling targets are set, or more preferably, closed loop refillable packaging. This could begin with a refillable DRS system. Please see our response to Q11 in the DRS consultation for more information on refillables.

⁴⁷ Bundesministerium Nachhaltigkeit und Tourismus, 2019. Schulterabschluss gegen Plastikverschmutzung. Available at: <https://www.bmnt.gv.at/service/presse/umwelt/2019/Schulterabschluss-gegen-Plastikverschmutzung.html>

⁴⁸ Bundesministerium der Justiz und für Verbraucherschutz, 2017. Gesetz über das Inverkehrbringen, die Rücknahme und die hochwertige Verwertung von Verpackungen (Verpackungsgesetz - VerpackG). Available at: <https://www.gesetze-im-internet.de/verpackg/BJNR223410017.html#BJNR223410017BJNG000100000>

53. Should government set specific targets for individual formats of composite packaging? If yes, what key categories of composite packaging should be considered? Please briefly state the reasons for your responses and provide any information to support your view.

We support specific targets for individual formats of composite packaging, provided that they are introduced in tandem with reuse or reduction targets so as to not allow switching to another, more recyclable, material.

54. Do you agree with the proposed interim targets for 2021 and 2022 set out in Table 6?

Neither agree nor disagree

55. Do you agree with the proposal to increase the allocation method percentage to 35% for 2021 and 2022?

Neither agree nor disagree

56. Overall, which governance model for packaging EPR do you prefer?

Model 2.

We support the adoption of Model 2, a single not-for-profit compliance scheme. While we favour this model, importantly we note that there are potential weaknesses associated with each of the schemes and as such certain principles and conditions must be applied to ensure environmentally and socially optimal outcomes are maximised as the foremost priority, regardless of the governance model selected.

There is evidence to suggest a single non-profit compliance scheme (commonly known as a Producer Responsibility Organisation (PRO)) is the governance model best positioned to deliver optimal environmental and social outcomes. Where there are multiple, competing schemes, PROs can make themselves more attractive to producers by lowering the price through means including use of loopholes in the legislation; cross financing between materials and services; cherry-picking; price undercutting by incurring losses in the market entry phase to gain market share (usually, prices are then increased later on); and cutting expenses for activities such as awareness raising campaigns or assistance for companies to optimise their packaging.⁴⁹ Thus, the most 'cost-efficient' PROs may not be those that provide the widest benefits. Furthermore, a single centralised scheme may be in an advantaged position to act strategically, achieve economic scale, and drive sector-wide progress through its unique position and relationship with accountable producers.

There is a risk that Model 1 could be inadequate, as it would be complex to implement and monitor, and is too close in function to the current PRN system whose flaws have been documented at length. We would urge the UK Government to be ambitious and commit to overhauling this broken system.

Whilst industry may argue that the current system allows for competition in the pricing of PRNs, we believe it actually contributes to higher costs in the long run and also discourages investment by waste companies because the feedstock is fragmented across the different compliance schemes and there is no guarantee of what will be available to them. By centralising the collection of waste via a single, not-for-profit organisation, there would be increased visibility of available feedstock and the competition would shift from the administrative function to actual competition for feedstock, thereby driving costs down. This will also mitigate the risk of compliance agencies minimising the impact of modulated fees in order to win business. Ultimately

⁴⁹ Spasova, Bilyana LU(2014) In *IIIEE Master thesis IMEN41 20141* [The International Institute for Industrial Environmental Economics](#)

good governance of a single not-for-profit organisation will result in the most effective outcome with clear accountability and maximum transparency.

As outlined in question 15, we believe that a deposit-based system could theoretically be the most effective in achieving the UK Government's proposed outcome of driving unrecyclable material off the market. However, we have concerns that in the immediate establishment of the system costs would be significantly higher to producers and therefore incentivise misreporting.

57. If you had to modify any of the models in any way to make them better suited to achieve the principles and outcomes government has set for packaging EPR what changes would you suggest?

In line with our answer to question 6 regarding the principles of the scheme, we recommend modifying the key responsibilities of the producer management organisation to drive reduction and reusability, in addition to recyclability.

58. Do you have any concerns about the feasibility of implementing any of the proposed governance models?

No.

It is entirely feasible to bring our packaging producer obligations up to a baseline standard that is currently operational across Europe and a new governance model, if designed with reduction and reuse at its core, will be a fundamental step towards tackling the plastic pollution crisis and over reliance on single use packaging of all materials. We urge the UK Government to show ambition and leadership and go beyond merely righting the wrongs of the PRN system by instead introducing a system that takes compliance out of the hands of the packaging industry and actively reduce the UK's material footprint.

59. Do you think that any of the governance models better enable a UK-wide approach to packaging producer responsibility to be maintained whilst respecting devolved responsibilities?

We believe that model two would lend itself to facilitating packaging producer responsibilities whilst respecting the responsibilities of devolved administrations.

During a panel discussion at a workshop organised by Zero Waste Scotland on May 2nd 2019, a senior civil servant from the Scottish Government shared similar views that model 1 is problematic. The specific concerns were that it lacks transparency, incentivises export, and does not lead to investment and support of UK waste management infrastructure. They also explained that model 4 would be harder for devolved administrations, and while the Scottish Government haven't closed the door on the idea, they would need a lot of convincing that this is the best model.

60. Stakeholders have suggested that a compliance fee mechanism similar to the arrangements currently in place under the WEEE producer responsibility scheme should be introduced if a competitive evidence market continues to operate such as in Model 1. Do you agree?

The WEEE system was changed to be based on a compliance fee instead of just evidence notes to prevent the massive market problems caused by compliance schemes accumulating more evidence than they needed, which they could then sell on.⁵⁰ This example highlights the potential deficiencies of having multiple,

⁵⁰ <https://resource.co/article/consultation-opened-weee-fee-proposals-10554>

competing producer responsibility organisations carrying out EPR responsibilities for companies within a market-based system.

61. Should a Packaging Advisory Board be established to oversee the functioning of the EPR system and the compliance schemes in the competitive compliance scheme model 1 or do you think other arrangements should be put in place?

Should a governance model be selected that allows for multiple competing compliance schemes, robust oversight will be essential to ensure that corners are not being cut in delivering environmentally optimal outcomes, with third party auditing of each scheme.

62. Please let us know your thoughts as to whether the proposed single management organisation should be established on a not-for-profit basis or as a government Arm's Length Organisation.

Regardless of the organisation, our priorities are that the management organisation should be as transparent and accountable as possible and is established to achieve the most effective environmental outcome.

One vehicle we would encourage to achieve this is through appointments to the Board of Directors of the organisation to be split across stakeholders, including representation from NGOs, academics with expertise in packaging waste and an even split of representation across the packaging supply chain. Board chairs should also be subject to regular re-appointment and fixed term board appointments.

63. If such a management organisation is established as not-for-profit, one option is for government to invite proposals from potential operators and then issue a licence to operate for a defined period of time. Do you agree with this approach?

Yes.

64. Should a single scheme be established for household/household-like packaging and C&I packaging as described for model 2?

Yes. A single scheme would be simpler, and therefore decrease the likelihood of fraud.

65. Or, should there be a separate system for managing compliance for household/household-like packaging and C&I packaging as described for model 3?

No. This option could create unnecessary complications.

67. Do you agree that government should seek to ensure export of packaging waste is undertaken in a transparent and environmentally responsible manner?

Yes.

Following the damning conclusions of the National Audit Office report on packaging recycling obligations⁵¹ including major discrepancies in reporting of plastic exports, routine negligence of many British firms in exporting contaminated waste, we welcome the UK Government's acknowledgement that there is a need for urgent overhaul of the export market for packaging waste.

⁵¹ <https://www.nao.org.uk/wp-content/uploads/2018/07/The-packaging-recycling-obligations.pdf>

While we support the direction of travel of the actions proposed in the consultation, more is required to level the playing field between UK reprocessors and exporters that handle UK waste packaging. Moreover, we encourage a progressive phase-down of the amount of packaging waste being dealt with overseas and corresponding rise in the volume dealt with in a closed-loop circular economy within the UK. We also urge the UK Government to incorporate social responsibility and working conditions when setting standards for waste exports.

These additional requirements are described in answer to question 69, including the introduction of a time-bound phase down of the export of plastic waste to ensure that the UK Government's commitment is fulfilled to 'stop offshoring our dirt'.⁵² This should be supplemented through further measures to ensure a corresponding rise in the volume of packaging being dealt with in a closed-loop circular economy within the UK, as well as stringent measures to end the use of incineration as a viable waste management option.

68. Do you agree that measures identified here would help ensure the export of packaging waste is undertaken in a transparent and environmentally responsible manner?

Yes.

We strongly agree with the adoption of these measures as a minimal baseline, and propose further actions in question 69. The UK Government should reconsider the principle of exporting waste to developing countries in general and should proactively introduce a suite of policies to take full responsibility for the UK's packaging footprint. These should include ambitious targets to drive down use of packaging materials, a time-bound phasing down of the export of plastic waste, significant investment in UK recycling infrastructure supplemented by targets on UK-based recycling and stringent measures to end incineration as a method of waste management.

With regards to the proposed measures, the accreditation process should be bolstered through the creation of a green list for export, with restrictions on the export of certain polymers and formats,⁵³ as well as unsorted waste and contamination levels which prevent recycling.

In order that the proposed measures to have their desired effect, the UK Government will need to clearly set out what funding will be available to enforcement agencies to ensure poor practice is documented, addressed and penalised.

It is currently unclear whether there will be a genuine economic incentive to cease waste exports vs. dealing with waste domestically. We call for the UK Government to undertake an urgent modelling exercise to understand at what level the fees need to be set at in order to achieve this objective.

69. Have we missed potential measures that you believe need to be considered alongside those measures we have proposed?

We urge the Government to use this opportunity to move beyond incremental improvements to the waste export system and fundamentally reconsider the current situation, making a commitment within the next five years to phase down the export of packaging waste altogether.

⁵² <https://www.independent.co.uk/environment/uk-plastic-pollution-oceans-recycling-export-waste-malaysia-vietnam-thailand-a8400761.html>

⁵³ Based upon the 'approved list' of packaging which the Government seeks to consult upon

The UK's recycling record to date (averaging just 30-34% of consumer plastic packaging)⁵⁴ has relied on the export of plastic waste to countries with lower labour and energy costs, and increasingly to countries with the highest levels of ocean plastic pollution,⁵⁵ without oversight of how much is ultimately recycled nor the working conditions involved.⁵⁶ The vast majority of waste exported from the UK and other high income countries has historically gone to China, but this came to end in 2018 when the country passed a regulatory action to permanently ban the import of non-industrial plastic waste.⁵⁷ This ban has forced many exporting countries to look to markets with even less developed waste management infrastructure; and has led some countries to follow China's suite – including India⁵⁸ and Vietnam.⁵⁹

To address and close the current gulf between the UK's consumption of packaging and ability to recycle it (particularly in the case of plastics), there is a clear need for a three-pronged approach to:

- Phase-down the export of packaging waste
- Significantly reduce packaging consumption levels
- Substantially boost investment in UK-based infrastructure that can deliver on a circular economy. This can be delivered through a blend of reduction and reuse strategies and targets, alongside capacity-building in reprocessing and supporting the market for products made of recycled content.

Lessons might be learnt from Flanders (Belgium), where a suite of domestic measures were introduced to boost recycling and lower pressure on natural resources.⁶⁰ Government action helped the creation of a market for recycled materials through product specifications, standards and regulation. In addition, economic incentives were introduced, such as higher rates for dumping debris at landfills, and imposed several restrictions on the dumping of unsorted construction and demolition waste. Flanders' policy includes financial incentives for reduction at source: subsidies to Flemish reuse centres, financial aid for municipalities setting up a prevention policy within the framework of the municipal covenants, and subsidies via the 'PRESTI' prevention stimulation programme, which encourages the drawing up of prevention manuals for different sectors, including construction.⁶¹

There is a risk that increasing the amount of packaging waste dealt with domestically could lead to an increase in incineration. To prevent this, the UK Governments should introduce a moratorium on the construction of new incineration capacity (new incinerators and proposals to extend existing infrastructure), with money currently earmarked for incinerator capacity channelled into recycling infrastructure, and the introduction of a tax on all waste incineration. The Government is already considering the latter measure, and we argue it should be enacted as soon as possible. This would also be consistent with the EU Waste Framework directive which states: *"any recovery operation by which waste materials are reprocessed into products, materials or substances whether for the original or other purposes. It includes the reprocessing of organic material but does*

⁵⁴ WRAP, 2018. Plastic Flow 2025: Plastic Packaging Flow Data Report. Available at

<http://www.wrap.org.uk/sites/files/wrap/PlasticFlow%202025%20Plastic%20Packaging%20Flow%20Data%20Report.pdf>

⁵⁵ Independent, 2018. UK now exporting more waste to countries with highest levels of ocean plastic pollution. Available at: <https://www.independent.co.uk/environment/uk-plastic-pollution-oceans-recycling-export-waste-malaysia-vietnam-thailand-a8400761.html>

⁵⁶ Mirror, 2018. Britain's plastic shame: UK sends tonnes of household waste overseas to be sorted by kids paid £3.60 for 12 hours work. Available at: <https://www.mirror.co.uk/news/world-news/britains-plastic-shame-send-tonnes-12784714>

⁵⁷ <https://www.researchgate.net/publication/325881851> The Chinese import ban and its impact on global plastic waste trade

⁵⁸ <https://resource.co/article/india-implements-ban-imports-plastic-waste-13128>

⁵⁹ <https://resource-recycling.com/plastics/2019/04/03/officials-say-vietnam-to-end-plastic-imports-in-2025/>

⁶⁰

http://ec.europa.eu/environment/enveco/resource_efficiency/pdf/studies/RE_in_Business_M9_Measures_supporting_EP_R.pdf

⁶¹ <https://www.green-alliance.org.uk/resources/Creative%20policy%20packages%20for%20waste%20-%20Flanders.pdf>

*not include energy recovery and the reprocessing into materials that are to be used as fuels or for backfilling operations”.*⁶²

The UK Government must reconsider whether it is ethical to export packaging waste en masse to developing countries. At present, the significantly lower labour costs are a large factor for high level of exports to non-EU countries, with serious concerns around health and safety and child labour. Low labour costs in Asian countries make the manual sorting of highly contaminated waste an economically attractive option. Until these social inequalities are reflected in the costs of recycling, a level playing field between the UK market and exporters will not be established.

*An investigation in Vietnam documented over half of the plastic imported “sold on to “craft villages”, where it is processed informally, mainly on a household scale. Informal processing involves washing and melting the plastic, which uses a lot of water and energy and produces a lot of smoke. The untreated water is discharged to waterways and around 20 percent of the plastic is unusable so it is dumped and usually burnt, creating further litter and air quality problems. Burning plastic can produce harmful air pollutants such as dioxins, furans and polychlorinated biphenyls and the wash water contains a cocktail of chemical residues, in addition to detergents used for washing. Working conditions at these informal processors are also hazardous, with burners operating at 260-400°C. Workers have little or no protective equipment.”*⁶³

Similar concerns have been reported in Malaysia, with reports of plastics being openly burned and residents reporting of health complications, which make it difficult to ensure environmentally sound management, worker health and safety and can generate negative economic impacts.⁶⁴

We urge the UK Government to consider guidelines contained in a practical manual drafted for the Secretariat of the Basel Convention related to the work programme of the Open-ended Working Group for 2018–2019: strategic issues: development of guidelines for environmentally sound management:⁶⁵

- *Separation at source is a basic element for EPR systems. Waste pickers can strengthen, or introduce, separate collection of products when they become waste. Where waste pickers are present, they should actively be provided with the opportunity to be included in the EPR collection systems in accordance with the rules governing each country; contributing their labour to improve the management of waste while including them socially.*
- *When including waste pickers, it is necessary to ensure ESM [Environmentally Sound Management], worker health and safety and to prevent child labour. The inclusion of waste pickers in cooperatives, associations and companies, and their training, should encourage their formalization.*
- *Waste pickers should not be involved in hazardous waste management, as it will make it difficult to ensure ESM and worker health and safety. However, for some hazardous waste EPR systems, waste pickers may be involved in separate collection, but exposure to hazardous substances should be prevented.*
- *Although the potentially positive contribution of the informal sector for collection and sorting activities is recognized, there are serious concerns about informal dismantling and recycling operations, which make it difficult to ensure ESM, worker health and safety and which can generate negative economic impacts.*

⁶² <https://eur-lex.europa.eu/legal-content/En/ALL/?uri=celex%3A32008L0098>

⁶³ <https://theconversation.com/heres-what-happens-to-our-plastic-recycling-when-it-goes-offshore-110356>

⁶⁴ <https://www.reuters.com/article/us-malaysia-waste/swamped-with-plastic-waste-malaysia-struggles-as-global-scrap-piles-up-idUSKCN1MZ0P4>

⁶⁵ UNEP, Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal Eleventh meeting UNEP/CHW/OEWG.11/INF/7 Draft practical manuals on Extended Producer Responsibility and on financing systems for environmentally sound management

Additional measures might include:

- Implementation of requirements mandated by the Modern Slavery Act, with incorporation of additional recommendations made by the Independent Review of the Modern Slavery Act;⁶⁶
- Requirement for human rights due diligence to be performed and monitored throughout the waste supply chain, integrating and acting on the findings;⁶⁷
- Consult with expert organisations such as the Global Alliance of Waste Pickers to discuss the development of guidelines to inform health, education and social security schemes for those employed in the waste management sector around the world.⁶⁸

70. Do you have any concerns about the feasibility and / or costs of implementing any of the proposed measures?

Significant costs are currently borne by ecosystems and communities around the world that are facing the consequences of the UK's reliance on shipping low-quality packaging waste without oversight or accountability mechanisms. In line with the Polluter Pays Principle, it is acceptable that the producer internalises these costs through the proposed changes. Through looking to solutions that promote the reduction and reuse of packaging, producers can avoid additional costs associated with linear design models that result in the need for waste exports.

71. Do you agree that accredited reprocessors and exporters should be required to report their financial information?

Yes.

We strongly agree that accredited reprocessors report both financial information and non-financial information regarding environmental and social issues in order to ensure accountability. The EU Non-Financial Reporting Directive requires non-financial disclosures concerning the following categories⁶⁹, which the UK could look to replicate:

- Environmental matters (pollution, energy usage, etc).
- Social and employee aspects
- Respect for human rights
- Anti-corruption and bribery issues
- Diversity on board of directors

Best practices have further been elaborated through the Global Reporting Initiative.⁷⁰

72. Should accredited reprocessors and exporters be required to generate evidence for every tonne of packaging waste that they process?

Yes.

⁶⁶

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/773372/FINAL_Independent_MSA_Review_Interim_Report_2_-_TISC.PDF

⁶⁷ <https://www.ungpreporting.org/framework-guidance/>

⁶⁸ For example, see https://globalrec.org/wp-content/uploads/2018/05/2018_aiw_SocialEntitlementManual.pdf

⁶⁹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>

⁷⁰ <https://www.globalreporting.org/standards/resource-download-center/linking-gri-standards-and-european-directive-on-non-financial-and-diversity-disclosure/>

73. Should accredited reprocessors and exporters be required to report on the packaging waste they handle monthly?

Yes. In principle we support this as a means of ensuring maximum transparency, and laud the ambition in this goal.

74. Do you think that any additional measures to those already described would be required to ensure transparent operating of the evidence market in model 4?

Don't know.

76. Under a reformed system do you think compliance schemes should continue to be approved by the existing regulators or do you think a different approach is required?

We strongly urge the UK Governments to incorporate third party auditing into compliance schemes to ensure greater transparency of their operations and reporting, verified annually by independent auditors. It is important that those tasked with oversight are sufficiently resourced to carry out this job comprehensively, noting that between 2017-18, the Environment Agency only carried out unannounced site visits on 1.4% of accredited English recyclers and exporters.⁷¹

78. Do you think there is a need to make more information on packaging available to consumers?

Consumers are overwhelmed with information on-pack but given the interest in packaging especially plastics, there is an opportunity for businesses to communicate what they are doing to tackle the issue. However we see this as an individual business decision rather than a mandatory labelling system.

79. Are there other datasets that will be required in order to monitor producers in any of the proposed models?

We urge the UK Governments to collect unit-based as well as tonnage data. Tonnage payments incentivise producers to reduce the weight of packaging, but this could lead to a shift into flexibles which are much harder to mechanically recycle. Examples from Europe show that existing (weight based) fee structures have led to a focus on light-weighting, which risks rewarding lighter but less recyclable materials.⁷²

Tonnage data skews data on recyclability. A 2018 survey of the UK's largest supermarkets found that the percentage of own brand single-use plastic packaging widely recyclable by weight ranged from 79% (Co-op) to 58% (M&S), with the mean average 66.2%, suggesting around a third of plastic packaging is not currently widely recyclable, using the On-Pack Recycling Label (OPRL) guideline definition.⁷³ However, Co-op also measures the recyclability of plastic packaging on a per item basis, much lower at 55%. This difference is due to certain heavier items (such as plastic bottles) being more recyclable than more numerous but lighter weight items such as plastic films.⁷⁴

⁷¹ <https://www.nao.org.uk/wp-content/uploads/2018/07/The-packaging-recycling-obligations.pdf>

⁷² <https://ieep.eu/uploads/articles/attachments/9665f5ea-4f6d-43d4-8193-454e1ce8ddfe/EPR%20and%20plastics%20report%20IEEP%2019%20Dec%202017%20final%20rev.pdf?v=63680919827>

⁷³ <https://checkingoutonplastics.org/wp-content/uploads/2018/11/Checking-out-on-plastics.pdf>

⁷⁴ <https://checkingoutonplastics.org/wp-content/uploads/2018/11/Checking-out-on-plastics.pdf>

We also propose that the UK Government considers the establishment of a clearinghouse or similar database wherein additives and other chemical inputs into plastic is made publicly available. This information should then be passed along the supply chain from producers to converter, and every step in between.

In the report, *'Considerations and Criteria for Sustainable Plastics from a Chemicals Perspective'*, prepared for the OECD, identifying the chemicals in plastics and creating a system for passing this information along the supply chain were considered priority actions.

80. Is there a specific material, packaging type or industry sector whereby producing accurate data is an issue?

No.

81. Do you think a single database, as opposed to the current range of methodologies available, would be an effective alternative?

Yes.

82. Do you agree that compliance schemes (models 1 and 3), the producer management organisation (model 2) or the scheme administrator (model 4) should be responsible for carrying out audits of producers, which should be reportable to the regulators?

No.

We do not believe that compliance schemes should carry out their own audits of producers, as they currently do, and we encourage the use of third-party independent auditors to carry out this function, paid for through revenues raised by EPR fees.

83. Do you support the broadening of legally enforceable notices to obtain required information?

Yes.

84. Are there other enforcement mechanisms that should be considered which would be timely and effective to bring producers into compliance, for example in relation to free riders?

Yes.

Producers who fail to meet their obligations under the EPR scheme could face import restrictions on their products. In April 2019, ten electronic giants, including Apple, Samsung, HP and Canon were barred from importing equipment for missing their e-waste collection targets under India's EPR scheme.⁷⁵

A draft practical manual on Extended Producer Responsibility was developed by UNEP for an Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal.⁷⁶ It recommends enforcement should ensure:

⁷⁵ <https://www.deccanherald.com/city/tech-giants-imports-halted-over-e-waste-728074.html>

⁷⁶ UNEP, Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal Eleventh meeting UNEP/CHW/OEWG.11/INF/7 Draft practical manuals on Extended Producer Responsibility and on financing systems for environmentally sound management

- a. A public register of producers is available and maintained in order to identify all producers including internet sellers and free-riders. All producers should be identified and required to take up their responsibility individually or through a PRO;
- b. There is no collusion between producers and that PROs are open to small and medium sized as well as large scale producers;
- c. Compliance with targets and other EPR system requirements;
- d. Transparency in terms of contributions paid by the producers, including the impact on sale prices
- e. Sound financial management of the EPR system, including calculation of the entire costs per type of product and the use of the funds collected;
- f. Quality of data and reporting;
- g. All waste management operators contracted by the EPR systems are compliant with applicable legislation;
- h. Legality of transboundary movements of waste.

86. Do you think a penalty charge, as described, is the correct lever to ensure packaging recycling targets are met?

Yes.

We strongly agree that producers that fail to meet packaging recycling targets should be penalised and that the primary responsibility for meeting these obligations should fall on producers. Any penalties applied to producers should be sufficiently punitive to drive better behaviour.

In principle, we agree that compliance schemes should also be held to account for failure to meet targets, however before applying any penalty there should be analysis of the reasons for the failure, as it may be routed in issues along the chain of compliance (for example an oversupply of hard-to-recycle material due to producers failing to adequately redesign their packaging in time).

87. Should stakeholders other than reprocessors or exporters be able to issue evidence of recycling?

No

89. Do you agree with the proposed amendments to enforcement powers relating to reprocessors and exporters?

Yes.

94. Do you have further comments on the associated Impact Assessment, including the evidence, data and assumptions used?

The Impact Assessment (IA) considers 3 different scenarios: reform the packaging producer responsibility system and introduce modulated fees without the DRS, EPR reform with an ‘all in’ DRS and EPR reform with an ‘on the go’ DRS. It is recognised that the IA is only a partial assessment of the overall societal impact that could result from packaging producer responsibility reform. Notably, many of the non-monetarised costs that are not included in the IA are amongst the most important measures of success for the scheme – such as reduced use of virgin materials, a more vibrant domestic reprocessing market, and reduced landfill and energy-from waste. The quantified estimates are based only upon increasing the recyclability of plastic packaging by replacing PVC and polystyrene with recyclable alternatives.

Given the extremely limited nature of the IA, we question its use as a tool for assessing the potential benefits of an effective EPR policy. In particular, long-term large cost savings may be available through the reduction of

non-essential packaging and shift into reusables. While there may be some upfront costs with rolling out alternative product delivery models, costs savings could over time be accumulated by producers and local authorities, who will save money through reduced costs associated with waste management and recycling, reduced EPR fees (and potential 30% recycled content tax), and reduction in upstream externalities associated with production of virgin resources.

95. If you have any other views or evidence that you think we should be considering when reforming the packaging waste regulations, which you have not yet shared, please add them here.

As mentioned previously in our response, while we welcome this proposal as a significant improvement on the existing PRN system, crucial flaws remain within the vision of the scheme which will fail to fully address the current problems associated with the recent proliferation of single use packaging. These include:

- A lack of substantive policy framework for driving an increase in reusable packaging or entirely packaging-free delivery systems
- A failure to hold producers to account for the environmental impact of material use at all stages of a products' life cycle
- A less-than-clear strategy for ensuring that new policies introduced through these consultations is subject to appropriate oversight and are not managed entirely by industry, who have historically failed to police themselves when engaging in fraudulent or negligent practice

If the UK Government does not address these concerns through this consultation process, it will be failing to meet the needs of our natural environment. We urge the UK Government to put their words into action and take a world-leading approach to waste.